APPEAL NO. 032404
FILED NOVEMBER 3, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on September 2, 2003. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on June 3, 2002, with a 10% impairment rating (IR), as certified by a designated doctor appointed by the Texas Workers' Compensation Commission (Commission). The claimant appeals, arguing that the designated doctor's MMI certification was premature and his report, therefore, should not be adopted. The respondent (carrier) did not file a response.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. Sections 408.122(c) and 408.125(c) provide that the report of the Commission-selected designated doctor is entitled to presumptive weight unless it is contrary to the great weight of the other medical evidence. Whether the great weight of the other medical evidence was contrary to the opinion of the designated doctor is basically a factual determination. Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. The claimant contends that he was not yet at MMI on June 3, 2002, and his condition continued to improve after he underwent spinal surgery on February 11, 2003, as per the reports of his treating and referral doctors. We view the reports of the claimant's treating doctor as representing a difference in medical opinion, which does not rise to the level of the great weight of medical evidence contrary to the designated doctor's report. Accordingly, the hearing officer's MMI/IR determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant contends that the hearing officer improperly concluded that his compensable injury did not include a condition at L3-S1, requiring spinal surgery on February 11, 2003. The claimant appears to argue that this conclusion, in turn, led the hearing officer to find a premature date of MMI. We note that the hearing officer made no findings of fact or conclusions of law with regard to the compensability of a condition at L3-S1. To the extent that the claimant's subsequent spinal surgery at L3-S1 was discussed in the Statement of the Evidence, we read the decision to state only that the hearing officer was not persuaded that such surgery necessitated a different result.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRANSCONTINENTAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Edward Vilano
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

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Elaine M. Chaney
Appeals Judge